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MARJORIE R. ESMAN
EXECUTIVE DIRECTOR

October 6, 2010

OPEN LETTER SEEKING PUBLIC RECORDS

BY FAX 504-658-5775
and regular mail
Superintendent Ronal W. Serpas
New Orleans Police Department
715 S. Broad Street, Rm. 501
New Orleans, LA 70119

Dear Superintendent Serpas:

We have received complaints that NOPD officers have stopped individuals who are walking, biking or driving, asked them to identify themselves, recorded information from their I.D. cards, and then allowed the person to continue on his or her way. Obviously, such stops raise serious Fourth Amendment concerns. We write in hope of understanding why NOPD officers are engaging in this practice, what information is being gathered, and for what purposes the information is being used.

Therefore, pursuant to the Public Records Act of Louisiana, R.S. 44:1 *et seq.*, we request copies of the public records described below. For purposes of this request, the term “**documents**” includes, but is not limited to, any memoranda, letters, electronic mail or “e-mail,” handwritten, typed, or electronic notes, recordings of any kind and in any form (video, audio, digital, etc.)

1. Any and all documents containing information pertaining to the NOPD's practice of stopping individuals and asking them to identify themselves. This includes any training materials or internal memoranda or correspondence.
2. Any and all documents showing what information is requested from individuals stopped by NOPD officers pursuant to this practice, why it is requested, and what happens to that information, specifically, where it is stored and how it is used.
3. Any and all documents reflecting the information obtained by NOPD officers pursuant to stops of individuals, including but not limited to “information cards” or similar documents completed by NOPD officers.

Under the provisions of R.S. 44:32, if you raise a question as to whether any of the records requested is a public record, you are required to notify in writing the person making the request of your determination and the reasons, including the legal basis therefor. Notice shall be made within three days of the receipt of the request, exclusive of Saturdays, Sundays and legal public holidays. If you claim exemption for a record or records under the Public Records Act, or any other statute, include for each record the section of law under which exemption is claimed and your reasons for believing the statute is applicable to the record.

(2)

Under the provisions of R.S. 44:33, if the public record is not immediately available, you are required to certify this in writing promptly, and in your certificate fix a day and hour within three days, exclusive of Saturdays, Sundays and legal public holidays, for the exercise of the right granted in the Public Records Act.

Under R.S. 44:34, "If any public record applied for by any authorized person is not in the custody or control of the person to whom the application is made, such person shall promptly certify this in writing to the applicant, and shall in the certificate state in detail to the best of his knowledge and belief, the reason for the absence of the record from his custody or control, its location, what person has custody of the record and the manner and method in which, and the exact time at which it was taken from his custody and control. He shall include in the certificate ample and detailed answers to inquiries of the applicant which may facilitate the exercise of the right granted by this Chapter."

If you are invoking R.S. 44:34 to deny this request, please answer the following questions in detail.

1. Is a copy of the requested public record usually located in your office?
2. Why is your copy of the requested public record absent from your office?
3. Where is your copy of the requested public record?
4. Who has received a copy of the requested public record?
5. How and from whom did the present custodian gain control of your copy of the requested public record?
6. What was the exact time your copy of the public record was taken from your custody and control?
7. When will your copy of the requested public record be returned to your office?
8. Is there any other public official who has a copy of the requested record?
9. What is/are the name(s) of anyone who has a copy of the requested public record?
10. What is/are the location(s) where the public record can be viewed?
11. What are the hours and dates when the requested public record can be viewed?

Please contact us at the number above when the requested materials are ready to be mailed. We request that any and all documents that are available, or that can be made available, in electronic form be copied to the enclosed CD. This request includes any documents that are in paper form but that can be scanned to electronic form, as well as digital copies of any recordings. For those documents that cannot be produced in electronic form, if the cost of copies does not exceed \$50.00, proceed without further approval and send us an invoice with the records; otherwise, call to advise and gain approval to proceed. As you are aware, failure to abide by the Public Records Law may result in certain penalties and the award of attorney's fees. We trust that you will comply without the necessity of any further action on our part.

Sincerely,


Marjorie Esman
Executive Director